

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:) CASE NO. BK11-82837-TJM
)
JEFFREY SCOTT DAVIS and) CH. 7
ANN LYNNETTE DAVIS,)
)
Debtor(s).)

ORDER

Hearing was held in Omaha, Nebraska, on February 13, 2012, regarding Fil. #23, Objection to Exemptions, filed by Trustee Richard D. Myers and Fil. #25, Resistance, filed by the Debtors. Dan Peters appeared for the Debtors and Sam King appeared for the Chapter 7 Trustee.

The Trustee has objected to a claim of exemption for tools under Neb. Rev. Stat. § 25-1556(4). The Trustee asserts that Debtors have made no money by use of the tools from February 2011 to the petition date, November 14, 2011.

Debtors admit they earned very little income from the home furnishing/drapery business in 2011, but presented evidence that the business is ongoing, even though it lost its biggest customer.

There is no statutory requirement of a continuous stream of income from the use of the tools for a claim of exemption to be allowed. There is a business, there is some advertising, and there is some hope on the part of Mr. Davis. The Trustee's objection is denied. The claim of exemption is allowed, but only for Mr. Davis's material, not to exceed \$2,400. There is no evidence Mrs. Davis is involved in the business and so no claim of exemption is allowed for her.

IT IS ORDERED that the Objection to Exemptions, Fil. #23, is denied as to Mr. Davis's material, not to exceed \$2,400. No claim of exemption is allowed for Mrs. Davis.

DATED: February 16, 2012

BY THE COURT:

/s/ Timothy J. Mahoney
Bankruptcy Judge

Notice given by the Court to:

Dan Peters
*Sam King
U.S. Trustee

* Movant is responsible for giving notice of this order to all other parties not listed above if required by rule or statute.